IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 32359 of 1998

Between:

Biradavolu Gram Panchayat, rep. by its Sarpanch Ravula Dasaiah Goud, S/o Ankaiah Goud,R/o Biradavolu Village, Podalakur Mandal,
Nellore Dist.

..... PETITIONER

AND

1. The District Collector (Panchayat),
Nellore, Nellore District.
2 The Revenue Divisional Officer,
Nellore , Nellore District.
3 The Mandal Revenue Officer,
Podalakur, Nellore Dist.
4 Akkem Ramana Reddy S/o. Krishna Reddy
Kalyanapuram village, Biradavolu (PO), Podalakur Mandal, Nellore district
5 Akkem Venkateswarlu Reddy S/o. Krishna Reddy
Kalyanapuram village, Biradavolu (PO), Podalakur Mandal, Nellore district
6 Atla Venugopal Reddy S/o. Narapa Reddy
Kalyanapuram village, Biradavolu (PO), Podalakur Mandal, Nellore district
7 Akkem Venku Reddy S/o. Krishna Reddy
Kalyanapuram village, Biradavolu (PO), Podalakur Mandal, Nellore district
8 Akkem Venkata Narapa Reddy S/o. Ramana Reddy
Kalyanapuram village, Biradavolu (PO), Podalakur Mandal, Nellore district
9 Akkem Venkateswara Reddy S/o. Papi Reddy
Kalyanapuram village, Biradavolu (PO), Podalakur Mandal, Nellore district
(RR 4 to 9 impleaded as per court order dt. 5-11-2004 in WPMP 18247 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or writ more particularly one in the nature of Writ of mandamus declaring the action of the respondents in seeking to dispossess the Gram Panchayat from 0-30 cents of dry land in Survey No.547 of Kalyanapuram Village, H/o Birdavolu, Podalakur Mandal, Nellore District which is vested in petitioner Gram Panchayat under Section-58 of A.P., Panchayat Raj Act without following any procedure and the further action of the respondents in seeking to induct the third parties in possession of the same without notice to the petitioner gram panchayat is illegal, arbitrary, unjust and violative of section-58 of the AP Panchayat Raj Act 1994 and consequently direct the respondents not to interfere with the petitioner's possession and control of the above said land.

For the Petitioner: MR.P.SRIDHAR REDDY, Advocate

For the Respondents 1 to 3: GP FOR REVENUE

For the Respondents 4 to 9: Sri CH.C. KRISHNA REDDY, Advocate

The Court made the following :

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

W.P. No. 32359/1998

ORDER:

The petitioner, namely, Biradavolu Gram Panchayat claiming to be in possession of Ac.0-30 cents of land in S.No.547 of Kalyanapuram H/o Biradavolu village filed the present writ petition stating that the land to an extent of Ac.0-30 cents vests in the petitioner-Gram

Panchayat under Section 58 of the A.P. Panchayat Raj Act, 1994 (for short “the Act”), which was situated by the side of road leading to the village and was used as cattle stand (Mandabayalu) and also grazing poramboke by the villagers. It is stated that without issuing notification as contemplated under sub-section (2) of Section 58, the official respondents converted the same into house sites and are trying to assign the same to third parties, which is without jurisdiction.

The third respondent filed a counter-affidavit stating that the land in S.No.547 admeasuring Ac.4-97 cents is classified as A.W.Dry in the revenue records, which does not fall under any of the categories as provided under Sec. 58 of the Act and petitioner-Gram Panchayat has no control over the same. The villagers of the Biradavolu village represented that for going to their lands and for transporting agricultural inputs and other material and cattle, they are using the land belonging to the Government as passage and ryots of Kalyanapuram are trying to construct houses by encroaching the Government land, which resulted in passing orders under Sec. 145 Cr.P.C., on 26-8-1997, which were withdrawn on 30-10-1998. With the consultation of both groups a road to an extent of Ac.0-28 cents was formed in S.No.547 and house site pattas were issued to six eligible beneficiaries to an extent of Ac.0-18 cents and possession has also been delivered to them. Still an extent of Ac.4-51 cents was available in S.No.547 and it was never used as cattle stand or grazing ground , but the land vested in the Government.

Learned counsel for the petitioner contends that if the pattas are granted to third parties, the petitioner may be directed to file an appeal before the Collector who can decide whether the land vests in the Government or in the Gram Panchayat as per sub-section (1) of Section 58 of the Act.

Having regard to the fact that the road is already laid and land to an extent of Ac.0-18 cents has been assigned to respondents 4 to 9, who stated to have erected thatched huts and residing therein, the writ petition is disposed of permitting the petitioner to approach the

District Collector requesting him to decide whether the land vests in the Government or Gram Panchayat, if so advised.

The writ petition is accordingly disposed of. No costs.

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A.GOPAL REDDY, J

Date: 17-11-2004

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To

1. The District Collector (Panchayat),
   Nellore, Nellore District.
2 The Revenue Divisional Officer,
   Nellore , Nellore District.
3 The Mandal Revenue Officer,
   Podalakur, Nellore Dist.
4. 2 CCs to the Govt., Pleader for Revenue, High Court Buildings, Hyderabad (OUT)
5. 2 CD copies.